

# MONTANA LEGISLATIVE HISTORY

Chapter 15 1985

Bill H 10 S \_\_\_\_\_

Original bill & history 1 C

H. Committee on ed. + Cul. Res.

Hearing Date(s) 1/11 1 C

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Date Out \_\_\_\_\_ C

S. Committee on ed. + Cul. Res.

Hearing Date(s) 1/25 1 C

1/28 1 C

\_\_\_\_\_ C

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Did this bill originate in an interim committee? \_\_\_\_\_ Yes 1 No

Committee \_\_\_\_\_

Report \_\_\_\_\_

# HOUSE FINAL STATUS

3/18 3RD READING AMENDMENTS CONCURRED 96 0  
 3/23 SIGNED BY SPEAKER  
 3/23 SIGNED BY PRESIDENT

3/25 TRANSMITTED TO GOVERNOR  
 3/29 SIGNED BY GOVERNOR  
 CHAPTER NUMBER 220 EFFECTIVE DATE: 10/01/85

HB 9

INTRODUCED BY EUDAILY  
 STATEMENTS OF INTENT FOR NEW AUTHORITY ONLY  
 BY REQUEST OF LEGISLATIVE COUNCIL

1/07 INTRODUCED  
 1/07 REFERRED TO RULES  
 1/17 HEARING  
 1/18 COMMITTEE REPORT-BILL DO PASS  
 1/21 2ND READING PASS 88 8  
 1/22 3RD READING PASS 89 8

TRANSMITTED TO SENATE  
 1/23 REFERRED TO RULES  
 2/08 HEARING  
 2/08 COMMITTEE REPORT-BILL CONCURRED  
 2/11 2ND READING CONCURRED 50 0  
 2/13 3RD READING CONCURRED 50 0

RETURNED TO HOUSE  
 2/16 SIGNED BY SPEAKER  
 2/16 SIGNED BY PRESIDENT

2/18 TRANSMITTED TO GOVERNOR  
 2/20 SIGNED BY GOVERNOR  
 CHAPTER NUMBER 29 EFFECTIVE DATE: 2/20/85

HB 10

INTRODUCED BY EUDAILY  
 GENERAL REVISION OF LAWS RELATING TO EDUCATION AND  
 MINORS  
 BY REQUEST OF CODE COMMISSIONER

1/07 INTRODUCED  
 1/07 REFERRED TO EDUCATION & CULTURAL RESOURCES  
 1/11 HEARING  
 1/12 COMMITTEE REPORT-BILL DO PASS  
 1/14 2ND READING PASS 96 0  
 1/16 3RD READING PASS 98 0

TRANSMITTED TO SENATE  
 1/18 REFERRED TO EDUCATION & CULTURAL RESOURCES  
 1/25 HEARING  
 1/29 COMMITTEE REPORT-BILL CONCURRED  
 1/30 2ND READING CONCURRED 49 0  
 2/01 3RD READING CONCURRED 49 0

RETURNED TO HOUSE  
 2/07 SIGNED BY SPEAKER  
 2/07 SIGNED BY PRESIDENT

2/07 TRANSMITTED TO GOVERNOR  
 2/08 SIGNED BY GOVERNOR  
 CHAPTER NUMBER 15 EFFECTIVE DATE: 10/01/85

HOUSE BILL NO. 10

AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO EDUCATION AND MINORS; AMENDING SECTIONS 20-3-331, 20-6-321, 20-9-351, 20-9-352, 20-9-407, 20-15-403, 41-3-609, 41-3-1103, 41-3-1121, AND 41-5-601, MCA.

Section 1. 20-3-331. This amendment removes a reference to section 2-9-104, MCA, which was repealed by sec. 4, Ch. 675, L. 1983.

Section 2. 20-6-321. This amendment makes permanent the bracketed word "without" inserted by the Code Commissioner in 1983. The references in the section to sections 20-6-315 and 20-6-319 are to sections governing consolidation of districts without assumption of bonded indebtedness.

Section 3. 20-9-407. This amendment increases the reference to 29% of taxable value limitation on bonded indebtedness to 45% of taxable value in two places, in order to coincide with the 1981 amendment to 20-9-406, which sets the limitation. In subsection (2), a reference to "this section" is changed to 20-9-406 because that section actually sets the limitations on indebtedness.

Section 4. 20-9-351. This amendment removes language inserted by Ch. 540, L. 1981. That chapter was entitled: "An act to simplify utilization of funds available for financing the foundation program and permissive portions of public school budgets; amending sections 20-9-345, 20-9-351, and 20-9-352, MCA."

Chapter 371, L. 1981, was entitled: "An act to remove the authority of the superintendent of public instruction to direct the imposition of statewide deficiency tax levies; revising the method of financing elementary and secondary schools; amending sections 20-3-205, 20-9-303, 20-9-343, 20-9-344, 20-9-351, and 20-9-352, MCA; repealing section 20-9-345, MCA; and providing an effective date."

The chapters enacted conflicting amendments to sections 20-9-351 and 20-9-352. Because Ch. 317 substituted a procedure applicable to current budgetary processes, and Ch. 540 contemplated usage of deficiency levies eliminated by Ch. 317, the language inserted by Ch. 540 is being removed.

Section 5. 20-9-352. This amendment removes references to section 20-9-351 which were inserted by Ch. 540, L. 1981 (see explanation above). As contemplated by Ch. 540, section 20-9-351 contained subsections (2) through (5) relating to

1 the use of deficiency levies which were removed by Ch. 317,  
2 L. 1981. The amendment also inserts language in subsection  
3 (3) which was not codified from Ch. 317, as being  
4 apparently inconsistent with Ch. 540.

5 Section 6. 20-15-403. This amendment removes a  
6 reference to section 18-1-105, MCA, which was repealed by  
7 sec. 2, Ch. 92, L. 1979, and a reference to 19-1-602, since  
8 the term "school district" was removed from that section by  
9 Ch. 264, L. 1981.

10 Section 7. 41-3-609. This amendment removes a  
11 reference to sections 40-6-132 through 40-6-134, which were  
12 repealed by sec. 5, Ch. 1, Sp. L. 1981, and inserts a  
13 reference to 40-6-135, which replaced the repealed sections.

14 Section 8. 41-3-1103. This amendment removes  
15 subsection (1)(g) which refers to adoption and  
16 implementation of a "plan" for community-based youth  
17 services. The section mandating the plan was deleted from HB  
18 24 (Ch. 465, L. 1983) but this reference to the "plan" was  
19 retained.

20 Section 9. 41-3-1121. This amendment substitutes the  
21 phrase "substitute care" for "shelter care" because  
22 "substitute care" is defined and "shelter care" is not.  
23 Shelter is included in the definition of "substitute care".

24 Section 10. 41-5-601. This amendment substitutes a  
25 reference to 41-5-501 for "this section". Section 41-5-501  
26 provides for filing a petition initiating youth court  
27 proceedings. No petitions are filed under 41-5-601.

1                   HOUSE       BILL NO.    10  
2    INTRODUCED BY    EUDAILY  
3                   BY REQUEST OF THE CODE COMMISSIONER  
4  
5    A BILL FOR AN ACT ENTITLED:  "AN ACT TO GENERALLY REVISE AND  
6    CLARIFY THE LAWS RELATING TO EDUCATION AND MINORS;  AMENDING  
7    SECTIONS  20-3-331,  20-6-321, 20-9-351, 20-9-352, 20-9-407,  
8    20-15-403, 41-3-609,  41-3-1103, 41-3-1121,  AND 41-5-601,  
9    MCA."  
10  
11   BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
12       Section 1.  Section  20-3-331, MCA, is amended to read:  
13       "20-3-331.  Purchase of liability insurance.  The  
14   trustees of any district may purchase insurance coverage for  
15   the district, trustees, and employees against liability for  
16   the death, injury, or disability of any person or damage to  
17   property.  If such insurance is purchased, the trustees shall  
18   pay the insurance premium cost from the general fund.  The  
19   ~~provisions of 2-9-104 shall apply to the provisions of this~~  
20   ~~section.~~"  
21       Section 2.  Section  20-6-321, MCA, is amended to read:  
22       "20-6-321.  High school district consolidation of  
23   districts in two or more counties.  Any two or more high  
24   school districts located in two or more counties and whose  
25   territory is contiguous may consolidate to organize a joint

1   high school district.  Whenever a joint district  
2   consolidation is considered by two or more districts, the  
3   procedure for consolidation ~~with~~{without} the assumption of  
4   bonded indebtedness prescribed in 20-6-315 and 20-6-319 must  
5   be used, except that each district shall submit its  
6   resolution or petition and its election certificate to the  
7   county superintendent of its resident county and the several  
8   county superintendents shall jointly perform the duties  
9   prescribed for the county superintendent in 20-6-315."  
10       Section 3.  Section  20-9-407, MCA, is amended to read:  
11       "20-9-407.  Industrial facility agreement for bond  
12   issue in excess of maximum.  (1) In a school district within  
13   which a new major industrial facility which seeks to qualify  
14   for taxation as class five property under 15-6-135 is being  
15   constructed or is about to be constructed, the school  
16   district may require, as a precondition of the new major  
17   industrial facility qualifying as class five property, that  
18   the owners of the proposed industrial facility enter into an  
19   agreement with the school district concerning the issuing of  
20   bonds in excess of the 29% 45% limitation prescribed in  
21   20-9-406.  Under such an agreement, the school district may,  
22   with the approval of the voters, issue bonds which exceed  
23   the limitation prescribed in this section by a maximum of  
24   29% 45% of the estimated taxable value of the property of  
25   the new major industrial facility subject to taxation when

1 completed. The estimated taxable value of the property of  
2 the new major industrial facility subject to taxation shall  
3 be computed by the department of revenue when requested to  
4 do so by a resolution of the board of trustees of the school  
5 district. A copy of the department's statement of estimated  
6 taxable value shall be printed on each ballot used to vote  
7 on a bond issue proposed under this section.

8 (2) Pursuant to the agreement between the new major  
9 industrial facility and the school district and as a  
10 precondition to qualifying as class five property, the new  
11 major industrial facility and its owners shall pay, in  
12 addition to the taxes imposed by the school district on  
13 property owners generally, so much of the principal and  
14 interest on the bonds provided for under this section as  
15 represents payment on an indebtedness in excess of the  
16 limitation prescribed in this-section 20-9-406. After the  
17 completion of the new major industrial facility and when the  
18 indebtedness of the school district no longer exceeds the  
19 limitation prescribed in this section, the new major  
20 industrial facility shall be entitled, after all the current  
21 indebtedness of the school district has been paid, to a tax  
22 credit over a period of no more than 20 years. The credit  
23 shall as a total amount be equal to the amount which the  
24 facility paid the principal and interest of the school  
25 district's bonds in excess of its general liability as a

1 taxpayer within the district.

2 (3) A major industrial facility is a facility subject  
3 to the taxing power of the school district, whose  
4 construction or operation will increase the population of  
5 the district, imposing a significant burden upon the  
6 resources of the district and requiring construction of new  
7 school facilities. A significant burden is an increase in  
8 ANB of at least 20% in a single year."

9 Section 4. Section 20-9-351, MCA, is amended to read:

10 "20-9-351. Funding of deficiency in state equalization  
11 aid. If the estimated state equalization level made under  
12 the provisions of 20-9-348 is less than 100% ~~or-if-the~~  
13 ~~permissive--funding--level--made--under--the--provisions--of~~  
14 ~~20-9-352--is--less--than--100%~~, it shall be the duty of the  
15 superintendent of public instruction to request the budget  
16 director to submit a request for a supplemental  
17 appropriation in the second year of the biennium that would  
18 be sufficient to complete the funding of the foundation  
19 ~~programs prescribed under 20-9-348--and--of--the--permissive~~  
20 ~~programs--prescribed--under--20-9-352~~ of the elementary or  
21 secondary schools, or both, for the current biennium."

22 Section 5. Section 20-9-352, MCA, is amended to read:

23 "20-9-352. Permissive amount and permissive levy. (1)  
24 Whenever the trustees of any district shall deem it  
25 necessary to adopt a general fund budget in excess of the

1 foundation program amount but not in excess of the maximum  
 2 general fund budget amount for such district as established  
 3 by the schedules in 20-9-316 through 20-9-321, the trustees  
 4 shall adopt a resolution stating the reasons and purposes  
 5 for exceeding the foundation program amount. Such excess  
 6 above the foundation program amount shall be known as the  
 7 "permissive amount", and it shall be financed by a levy on  
 8 the taxable value of all taxable property within the  
 9 district as prescribed in 20-9-141, supplemented with any  
 10 biennial appropriation by the legislature for this purpose.  
 11 The proceeds of such an appropriation shall be deposited to  
 12 the state special revenue fund, permissive account.

13 (2) The district levies to be set for the purpose of  
 14 funding the permissive amount are determined as follows:

15 (a) For each elementary school district, the county  
 16 commissioners shall annually set a levy not exceeding 6  
 17 mills on all the taxable property in the district for the  
 18 purpose of funding the permissive amount of the district.  
 19 The permissive levy in mills shall be obtained by  
 20 multiplying the ratio of the permissive amount to the  
 21 maximum permissive amount by 6 or by using the number of  
 22 mills which would fund the permissive amount, whichever is  
 23 less. If the amount of revenue raised by this levy, plus  
 24 anticipated motor vehicle fees and reimbursement under the  
 25 provisions of 61-3-532 and 61-3-536, is not sufficient to

1 fund the permissive amount in full, the amount of the  
 2 deficiency shall be paid to the district from the state  
 3 special revenue fund according to the provisions of 20-9-351  
 4 ~~and-subsection~~ subsections (3) and (4) of this section.

5 (b) For each high school district, the county  
 6 commissioners shall annually set a levy not exceeding 4  
 7 mills on all taxable property in the district for the  
 8 purpose of funding the permissive amount of the district.  
 9 The permissive levy in mills shall be obtained by  
 10 multiplying the ratio of the permissive levy to the maximum  
 11 permissive amount by 4 or by using the number of mills which  
 12 would fund the permissive amount, whichever is less. If the  
 13 amount of revenue raised by this levy, plus anticipated  
 14 motor vehicle fees and reimbursement under the provisions of  
 15 61-3-532 and 61-3-536, is not sufficient to fund the  
 16 permissive amount in full, the amount of the deficiency  
 17 shall be paid to the district from the state special revenue  
 18 fund according to the provisions of 20-9-351~~and-subsection~~  
 19 subsections (3) and (4) of this section.

20 (3) The superintendent of public instruction shall, if  
 21 the appropriation by the legislature for the permissive  
 22 account ~~{program}~~ for the biennium is insufficient, request  
 23 the budget director to submit a request for a supplemental  
 24 appropriation in the second year of the biennium. The  
 25 supplemental appropriation shall provide enough revenue to

fund the permissive deficiency of the elementary and high school districts of the state. The proceeds of this appropriation shall be deposited to the state special revenue fund, permissive account, and shall be distributed to the elementary and high school districts in accordance with their entitlements as determined by the superintendent of public instruction according to the provisions of subsections (1) and (2) of this section.

(3)(4) Such--distribution Distribution under this section from the state special revenue fund shall be made in two payments. The first payment shall be made at the same time as the first distribution of state equalization aid is made after January 1 of the fiscal year. The second payment shall be made at the same time as the last payment of state equalization aid is made for the fiscal year. If the appropriation is not sufficient to finance the deficiencies of the districts as determined according to subsection (2), each district will receive the same percentage of its deficiency. Surplus revenue in the second year of the biennium may be used to reduce the appropriation required for the next succeeding biennium or may be transferred to the state equalization aid state special revenue fund if revenues in that fund are insufficient to meet foundation program requirements."

Section 6. Section 20-15-403, MCA, is amended to read:

"20-15-403. Applications of other school district provisions. (1) When the term "school district" appears in the following sections outside of Title 20, the term includes community college districts and the provisions of those sections applicable to school districts apply to community college districts: 2-9-101, 2-9-111, 2-9-316, 2-16-114, 2-16-602, 2-16-614, 2-18-703, 7-3-1101, 7-6-2604, 7-6-2801, 7-7-123, 7-8-2214, 7-8-2215, 7-8-2216, 7-11-103, 7-12-4106, 7-13-110, 7-13-210, 7-15-4206, 10-1-703, 15-1-101, 15-6-204, 15-16-101, 15-16-601, 15-18-108, 15-55-106, 15-70-301, 15-70-322, 17-5-101, 17-5-202, 17-6-103, 17-6-204, 17-6-213, 17-7-201, 18-1-102, ~~18-1-105~~, 18-1-112, 18-1-201, 18-2-101, 18-2-103, 18-2-113, 18-2-114, 18-2-404, 18-2-408, 18-5-205, 19-1-102, ~~19-1-602~~, 19-1-811, 22-1-309, 25-1-402, 27-18-406, 33-20-1104, 39-3-104, 39-4-107, 39-31-103, 39-31-304, 39-71-116, 39-71-117, 39-71-2106, 39-71-2206, 40-6-237, 41-3-1132, 49-3-101, 49-3-102, 53-20-304, 77-3-321, 82-10-201, 82-10-202, 82-10-203, 85-7-2158, and 90-6-208 and Rules 4D(2)(g) and 15(c), M.R.Civ.P., as amended.

(2) When the term "school district" appears in a section outside of Title 20 but the section is not listed in subsection (1), the school district provision does not apply to a community college district."

Section 7. Section 41-3-609, MCA, is amended to read:



"41-3-609. Criteria for termination. (1) The court may order a termination of the parent-child legal relationship upon a finding that the circumstances contained in subsection (1)(a), (1)(b), or (1)(c), as follows, exist:

(a) the parents have relinquished the child pursuant to ~~40-6-132-through-40-6-134~~ 40-6-135;

(b) the child has been abandoned by his parents as set forth in 41-3-102(3)(d); or

(c) the child is an adjudicated youth in need of care and both of the following exist:

(i) an appropriate treatment plan that has been approved by the court has not been complied with by the parents or has not been successful; and

(ii) the conduct or condition of the parents rendering them unfit is unlikely to change within a reasonable time.

(2) In determining whether the conduct or condition of the parents is unlikely to change within a reasonable time, the court must enter a finding that continuation of the parent-child legal relationship will likely result in continued abuse or neglect or that the conduct or the condition of the parents renders the parents unfit, unable, or unwilling to give the child adequate parental care. In making such determinations, the court shall consider but is not limited to the following:

(a) emotional illness, mental illness, or mental

deficiency of the parent of such duration or nature as to render the parent unlikely to care for the ongoing physical, mental, and emotional needs of the child within a reasonable time;

(b) a history of violent behavior by the parent;

(c) a single incident of life-threatening or gravely disabling injury to or disfigurement of the child caused by the parent;

(d) excessive use of intoxicating liquor or of a narcotic or dangerous drug that affects the parent's ability to care and provide for the child;

(e) present judicially-ordered long-term confinement of the parent;

(f) the injury or death of a sibling due to proven parental abuse or neglect; and

(g) any reasonable efforts by protective service agencies that have been unable to rehabilitate the parent.

(3) In considering any of the factors in subsection (2) in terminating the parent-child relationship, the court shall give primary consideration to the physical, mental, and emotional conditions and needs of the child. The court shall review and, if necessary, order an evaluation of the child's or the parent's physical, mental, and emotional conditions."

Section 8. Section 41-3-1103, MCA, is amended to read:

1 "41-3-1103. Powers and duties of department. (1) The  
2 department shall:

3 (a) administer all state and federal funds allocated  
4 to the department for youth foster homes, youth group homes,  
5 and child-care agencies for youth in need of care, youth in  
6 need of supervision, and delinquent youth;

7 (b) exercise licensing authority over all youth foster  
8 homes, youth group homes, and child-care agencies;

9 (c) collect and disseminate information relating to  
10 youth in need of care, youth in need of supervision, and  
11 delinquent youth;

12 (d) provide for training of program personnel  
13 delivering services;

14 (e) in cooperation with the department of institutions  
15 and youth care facility providers, develop and implement  
16 standards for youth care facilities;

17 (f) apportion and allocate placement budgets to all  
18 judicial districts; and

19 ~~{g}--seek--public--input--on--the--plan--prior--to--its~~  
20 ~~adoption-and-implementation;-and~~

21 {h}{g} maintain adequate data on placements it funds  
22 in order to keep the legislature properly informed of the  
23 following:

24 (i) the breakdown of youth in need of care, youth in  
25 need of supervision, and delinquent youth by category in

1 out-of-home care facilities;

2 (ii) the cost per facility for services rendered;

3 (iii) the type and level of care of services provided  
4 by each facility;

5 (iv) a profile of out-of-home care placements by level  
6 of care; and

7 (v) a profile of public institutional placements.

8 (2) The department may:

9 (a) enter into contracts with nonprofit corporations  
10 or associations to provide facilities and services for youth  
11 in need of care, youth in need of supervision, and  
12 delinquent youth;

13 (b) accept gifts, grants, and donations of money and  
14 property from public and private sources to initiate and  
15 maintain community-based services to youth;

16 (c) adopt rules to carry out the administration and  
17 purposes of this part.

18 (3) The department shall pay for room, board,  
19 clothing, personal needs, transportation, and treatment in  
20 district youth guidance homes, shelter care programs, and  
21 foster care homes for youths committed to the department of  
22 institutions who need to be placed in such facilities.  
23 Youths committed to the department of institutions and  
24 placed in residential facilities other than those described  
25 above shall not be the financial responsibility of the

1 department of social and rehabilitation services unless such  
2 placements have been approved in advance by the department  
3 of social and rehabilitation services."

4 Section 9. Section 41-3-1121, MCA, is amended to read:  
5 "41-3-1121. Foster care payments for youth court  
6 placements. (1) The youth court may establish procedures for  
7 finding, maintaining, and administering shelter substitute  
8 care and foster homes approved by the court for youth within  
9 the provisions of this part.

10 (2) Pursuant to 41-3-1122, the department shall make a  
11 foster care payment for a child placed by the youth court  
12 if:

13 (a) the child is placed in a youth care facility  
14 licensed by the department or by an appropriate licensing  
15 authority from another state;

16 (b) the youth court enters into an agreement according  
17 to federal regulations with the department for the placement  
18 of children;

19 (c) the placement of the child is reviewed as required  
20 by 41-3-1115; and

21 (d) the youth court retains supervision of the child  
22 in placement."

23 Section 10. Section 41-5-601, MCA, is amended to read:

24 "41-5-601. Publicity. (1) No publicity shall be given  
25 to the identity of an arrested youth or to any matter or

1 proceeding in the youth court involving a youth proceeded  
2 against as, or found to be, a delinquent youth or youth in  
3 need of supervision except as provided in subsection (2).

4 (2) When a petition is filed under ~~this--section~~  
5 41-5-501, publicity may not be withheld as to the identity  
6 of any youth formally charged with or proceeded against or  
7 found to be a delinquent youth as a result of the commission  
8 of any offense that would be punishable as a felony if the  
9 youth were an adult."

-End-

STATUS SHEET

1985

LEGISLATIVE SESSION

COMMITTEE ON EDUCATION & CULTURAL RESOURCES

H.B.

| BILL NO. | ENTERED<br>COMM. | DATE<br>CONSIDERED | OUT OF<br>COMM. | DO PASS<br>DATE | DO NOT<br>PASS<br>DATE | DO PASS<br>AS AMEND.<br>DATE | BE CON-<br>CURRED IN<br>DATE | BE CONC. IN<br>AS AMENDED<br>DATE | BE NOT CON-<br>CURRED IN<br>DATE |
|----------|------------------|--------------------|-----------------|-----------------|------------------------|------------------------------|------------------------------|-----------------------------------|----------------------------------|
| 10       | 1-7              | 1-11               | 1-11            | 1-11            |                        |                              |                              |                                   |                                  |
| 11       | 1-7              | 1-9                | 1-11            | 1-11            |                        |                              |                              |                                   |                                  |
| 15       | 1-7              | 1-9                | 1-9             | 1-9             |                        |                              |                              |                                   |                                  |
| 18       | 1-7              | 1-18               | 2-15            |                 |                        | 2-15                         |                              |                                   |                                  |
| 71       | 1-7              | 1-14               | 2-15            | 2-15            |                        |                              |                              |                                   |                                  |
| 79       | 1-7              | 2-4                | (TABLED 2-20)   |                 |                        |                              |                              |                                   |                                  |
| 80       | 1-7              | 1-11               | 1-16            |                 |                        | 1-16                         |                              |                                   |                                  |
| 99       | 1-7              | 1-14               | 1-16            |                 |                        | 1-16                         |                              |                                   |                                  |
| 100      | 1-7              | 1-9                | 1-11            |                 |                        | w/o rec<br>1-14              |                              |                                   |                                  |
| 129      | 1-10             | 1-21               | 1-23            | 1-23            |                        |                              |                              |                                   |                                  |
| 144      | 1-11             | 1-16               | 1-21            |                 |                        | 1-21                         |                              |                                   |                                  |
| 149      | 1-11             | 1-16               | 1-25            |                 | Amended<br>1-25        |                              |                              |                                   |                                  |
| 194      | 1-15             | 1-21               | 1-21            | 1-21            |                        |                              |                              |                                   |                                  |
| 192      | 1-15             | 1-23               | 1-25            |                 | Amended<br>1-25        |                              |                              |                                   |                                  |
| 188      | 1-15             | 1-23               | Tabled<br>1-25  |                 |                        |                              |                              |                                   |                                  |
| 209      | 1-16             | 1-25               | 1-28            | 1-28            |                        |                              |                              |                                   |                                  |

HOUSE EDUCATION COMMITTEE

\* \* \* \* \*

1985 LEGISLATIVE SESSION

COMMITTEE MEMBERS: Dan Harrington, Chairman  
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\* \* \* \* \*

LEGISLATIVE  
RESEARCHER : Andrea Merrill

MINUTES OF THE MEETING  
EDUCATION & CULTURAL RESOURCES COMMITTEE  
MONTANA STATE  
HOUSE OF REPRESENTATIVES

January 11, 1985

The meeting of the House Education & Cultural Resources Committee was called to order by Chairman Harrington at 3:00 p.m. on January 11, 1985 in Room 312-3 of the State Capitol building.

ROLL CALL: All members of the committee were present.

HOUSE BILL NO. 80: Hearing commenced on House Bill No. 80 with Irv Dayton from the University System speaking in behalf of its sponsor, Steve Waldron, District #58. The Committee was informed that this bill was introduced as the auditor found statues in non-compliance which relates to higher education. (See Exhibit #1) Section 2 and Section 4 deletes specific meeting dates and places and the required meetings which were held quarterly. Section 7 and Section 8 deletes a non-functioning Advisory Council and repeals statues on endowed professorships.

Chairman Harrington called for proponents of the bill. Harriett Meloy from the Board of Public Education spoke in favor of the bill.

There being no additional proponents or opponents, the floor was opened to discussion. Representative Eudaily asked why the quarterly dates were set for meetings of the Board of Regents, Board of Public Education, and State Board of Education. This question was answered by John Worthy stating that the dates coincided with the disbursement of funds--a system which is presently out of date.

Representative John Mercer voiced a concern of striking the section requiring the adoption of a seal to be used on all diplomas and documents. A duplicating section is less specific as to the imprint on the seal.

There being no further concerns or questions, the hearing on House Bill No. 80 was closed.

HOUSE BILL NO. 10: Hearing commenced on House Bill No. 10, sponsored by Representative Ralph Eudaily, District #60, who submitted the proposal at the request of the Code Commissioner. This is a bill procedural in nature, updating certain codes. Greg Petesch with the Legislative Council spoke on the conflicting amendments enacted and the need for Ch. 540 to be removed.

A call for proponents of this bill brought forward Bill Anderson from the Office of Public Instruction with his thanks and support for the bill.

There being no opponents, the floor was opened for discussion. Representative Peck recalled correspondence sent to the Office

of Public Instruction regarding this bill and the lack of communication received from them. Mr. Anderson apologized for this lack of communication and reiterated his support. Representative Hannah questioned the act of deleting the authority of the superintendent of public instruction to impose tax levies. Greg Petesch responded that the proposes bring up to date the current budgetary practices.

There being no further discussion on House Bill No. 10, hearing on this bill was closed.

ACTION ON HOUSE BILL NO. 11: It was moved by Ray Brandewie, seconded by Joe Hammond that House Bill No. 11, Do Pass. Representative Tom Hannah moved to adopt an amendment to this bill as follows:

1. Page 2, line 13.  
Following: line 12  
Insert: "(4) The provisions of subsection (2) do not affect a tenure teacher who is employed in an administrative position on or before the effective date of this act."

Discussion ensued regarding the act of receiving tenure as an administrator which was clarified by the committee researcher relaying that there isn't tenure on an administrative level, only as a teacher, according to Sec. 20-1-101.

Representatives Mercer and Brandewie voiced opposition to the amendment. Chairman Harrington called for a voice vote on the motion for adoption of the proposed amendment and the motion failed for lack of majority vote.

A roll call vote on the motion that House Bill No. 11 DO PASS showed 16 for, 2 against. The motion passed.

HOUSE BILL NO. 100: Representative Melvin Williams moved that House Bill No. 100 DO PASS with an amendment as follows:

1. Title, line 5.  
Following: "OF"  
Strike: "AN"  
Insert: "ANY FIRST-CLASS OR SECOND-CLASS"
2. Page 1, line 12.  
Following: "of"  
Strike: "an"  
Insert "any first-class or second-class"  
Following: "district"  
Insert: "as defined in 20-6-201"
3. Page 1, line 25.  
Following: line 24  
Insert: "(2) The trustees of any third-class

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elementary district may establish a five-year-old schooling program as provided in subsection (1)."

Renumber: subsequent subsection

Discussion of the amendment ensued clarifying that it proposes mandatory kindergarten for any first-class or second-class elementary district. Representatives Brandewie voiced opposition to the bill and the amendment, while Representative Eudaily concurred with opposition to the bill. Chairman Harrington and Representative Peck reiterated that at times school districts use the kindergarten programs to get mill levies passed; i.e. threatening to drop the programs due to lack of funding. There was considerable opinion that programs should be optional according to district need.

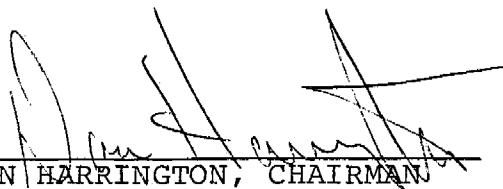
A voice vote on the amendment was undecided and a roll call vote was called for. The roll call vote showed 11 for, 7 opposed. The amendment passed as presented.

ACTION ON HOUSE BILL NO. 100: A motion was on the floor by Representative Williams to pass House Bill No. 100. The roll call vote showed a vote of 9 for and 9 against. The bill moved from the committee with NO RECOMMENDATIONS.

ACTION ON HOUSE BILL NO. 10: There was a motion of DO PASS made by Representative Brandewie, with a second by Representative Hammond. A voice vote indicated all in favor with the exception of one dissenting vote cast by Representative Hannah. The motion passed.

Executive Action on House Bill 80 will be held January 14th.

ADJOURN: There being no further business, the meeting adjourned at 4:15 p.m.

  
DAN HARRINGTON, CHAIRMAN

DH:crf



DAILY ROLL CALL

EDUCATION COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 1-11-85

| NAME            | PRESENT | ABSENT   | EXCUSED  |
|-----------------|---------|----------|----------|
| Dan Harrington  | ✓       |          |          |
| Ralph Eudaily   | ✓       |          |          |
| Ray Brandewie   | ✓       |          |          |
| William Glaser  | ✓       |          |          |
| Joe Hammond     | ✓       |          |          |
| Thom Hannah     | ✓       |          | X (late) |
| Raymond Harbin  | ✓       |          |          |
| Roland Kennerly | ✓       |          |          |
| Les Kitselman   | ✓       | X (late) |          |
| John Mercer     | ✓       |          |          |
| John Montayne   | ✓       |          |          |
| Richard Nelson  | ✓       |          |          |
| Jerry Nisbet    | ✓       |          |          |
| Ray Peck        | ✓       |          |          |
| Jack Sands      | ✓       | ✓ (late) |          |
| Ted Schye       | ✓       |          |          |
| Fred Thomas     | ✓       |          |          |
| Mel Williams    | ✓       |          |          |
|                 |         |          |          |
|                 |         |          |          |
|                 |         |          |          |

## VISITOR'S REGISTER

HOUSE EDUCATION

COMMITTEE

BILL (S) HB 10 + HB 80

DATE 1-11-85

SPONSOR \_\_\_\_\_

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

# STANDING COMMITTEE REPORT

JANUARY 11

19 85

MR. SPEAKER

We, your committee on EDUCATION & CULTURAL RESOURCES

having had under consideration HOUSE Bill No. 10

FIRST reading copy ( WHITE )  
color

**GENERAL REVISION OF LAWS RELATING TO EDUCATION AND MINORS**

Respectfully report as follows: That HOUSE Bill No. 10

DO PASS

STATE PUB. CO.  
Helena, Mont.

REPRESENTATIVE HARRINGTON

Chairman.

COMMITTEE SECRETARY

19

1        HOUSE        BILL NO.        10

2        AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO  
3        EDUCATION AND MINORS; AMENDING SECTIONS 20-3-331, 20-6-321,  
4        20-9-351, 20-9-352, 20-9-407, 20-15-403, 41-3-609,  
5        41-3-1103, 41-3-1121, AND 41-5-601, MCA.

6                Section 1. 20-3-331. This amendment removes a  
7        reference to section 2-9-104, MCA, which was repealed by  
8        sec. 4, Ch. 675, L. 1983.

9                Section 2. 20-6-321. This amendment makes permanent  
10       the bracketed word "without" inserted by the Code  
11       Commissioner in 1983. The references in the section to  
12       sections 20-6-315 and 20-6-319 are to sections governing  
13       consolidation of districts without assumption of bonded  
14       indebtedness.

15               Section 3. 20-9-407. This amendment increases the  
16       reference to 29% of taxable value limitation on bonded  
17       indebtedness to 45% of taxable value in two places, in order  
18       to coincide with the 1981 amendment to 20-9-406, which sets  
19       the limitation. In subsection (2), a reference to "this  
20       section" is changed to 20-9-406 because that section  
21       actually sets the limitations on indebtedness.

22               Section 4. 20-9-351. This amendment removes language  
23       inserted by Ch. 540, L. 1981. That chapter was entitled: "An  
24       act to simplify utilization of funds available for financing  
25       the foundation program and permissive portions of public  
26       school budgets; amending sections 20-9-345, 20-9-351, and  
27       20-9-352, MCA."

28               Chapter 371, L. 1981, was entitled: "An act to remove  
29       the authority of the superintendent of public instruction to  
30       direct the imposition of statewide deficiency tax levies;  
31       revising the method of financing elementary and secondary  
32       schools; amending sections 20-3-205, 20-9-303, 20-9-343,  
33       20-9-344, 20-9-351, and 20-9-352, MCA; repealing section  
34       20-9-345, MCA; and providing an effective date."

35               The chapters enacted conflicting amendments to sections  
36       20-9-351 and 20-9-352. Because Ch. 317 substituted a  
37       procedure applicable to current budgetary processes, and Ch.  
38       540 contemplated usage of deficiency levies eliminated by  
39       Ch. 317, the language inserted by Ch. 540 is being removed.

40               Section 5. 20-9-352. This amendment removes references  
41       to section 20-9-351 which were inserted by Ch. 540, L. 1981  
42       (see explanation above). As contemplated by Ch. 540, section  
43       20-9-351 contained subsections (2) through (5) relating to

1 the use of deficiency levies which were removed by Ch. 317,  
2 L. 1981. The amendment also inserts language in subsection  
3 (3) which was not codified from Ch. 317, as being  
4 apparently inconsistent with Ch. 540.

5 Section 6. 20-15-403. This amendment removes a  
6 reference to section 18-1-105, MCA, which was repealed by  
7 sec. 2, Ch. 92, L. 1979, and a reference to 19-1-602, since  
8 the term "school district" was removed from that section by  
9 Ch. 264, L. 1981.

10 Section 7. 41-3-609. This amendment removes a  
11 reference to sections 40-6-132 through 40-6-134, which were  
12 repealed by sec. 5, Ch. 1, Sp. L. 1981, and inserts a  
13 reference to 40-6-135, which replaced the repealed sections.

14 Section 8. 41-3-1103. This amendment removes  
15 subsection (1)(g) which refers to adoption and  
16 implementation of a "plan" for community-based youth  
17 services. The section mandating the plan was deleted from HB  
18 24 (Ch. 465, L. 1983) but this reference to the "plan" was  
19 retained.

20 Section 9. 41-3-1121. This amendment substitutes the  
21 phrase "substitute care" for "shelter care" because  
22 "substitute care" is defined and "shelter care" is not.  
23 Shelter is included in the definition of "substitute care".

24 Section 10. 41-5-601. This amendment substitutes a  
25 reference to 41-5-501 for "this section". Section 41-5-501  
26 provides for filing a petition initiating youth court  
27 proceedings. No petitions are filed under 41-5-601.

1                   HOUSE       BILL NO.   10  
2   INTRODUCED BY    EUDAILY  
3                   BY REQUEST OF THE CODE COMMISSIONER  
4  
5   A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND  
6   CLARIFY THE LAWS RELATING TO EDUCATION AND MINORS; AMENDING  
7   SECTIONS 20-3-331, 20-6-321, 20-9-351, 20-9-352, 20-9-407,  
8   20-15-403, 41-3-609, 41-3-1103, 41-3-1121, AND 41-5-601,  
9   MCA."  
10  
11   BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
12       Section 1. Section 20-3-331, MCA, is amended to read:  
13       "20-3-331. Purchase of liability insurance. The  
14   trustees of any district may purchase insurance coverage for  
15   the district, trustees, and employees against liability for  
16   the death, injury, or disability of any person or damage to  
17   property. If such insurance is purchased, the trustees shall  
18   pay the insurance premium cost from the general fund. The  
19   provisions of 2-9-104 shall apply to the provisions of this  
20   section."  
21       Section 2. Section 20-6-321, MCA, is amended to read:  
22       "20-6-321. High school district consolidation of  
23   districts in two or more counties. Any two or more high  
24   school districts located in two or more counties and whose  
25   territory is contiguous may consolidate to organize a joint

1   high school district. Whenever a joint district  
2   consolidation is considered by two or more districts, the  
3   procedure for consolidation with-~~without~~ the assumption of  
4   bonded indebtedness prescribed in 20-6-315 and 20-6-319 must  
5   be used, except that each district shall submit its  
6   resolution or petition and its election certificate to the  
7   county superintendent of its resident county and the several  
8   county superintendents shall jointly perform the duties  
9   prescribed for the county superintendent in 20-6-315."

10       Section 3. Section 20-9-407, MCA, is amended to read:  
11       "20-9-407. Industrial facility agreement for bond  
12   issue in excess of maximum. (1) In a school district within  
13   which a new major industrial facility which seeks to qualify  
14   for taxation as class five property under 15-6-135 is being  
15   constructed or is about to be constructed, the school  
16   district may require, as a precondition of the new major  
17   industrial facility qualifying as class five property, that  
18   the owners of the proposed industrial facility enter into an  
19   agreement with the school district concerning the issuing of  
20   bonds in excess of the 29% 45% limitation prescribed in  
21   20-9-406. Under such an agreement, the school district may,  
22   with the approval of the voters, issue bonds which exceed  
23   the limitation prescribed in this section by a maximum of  
24   29% 45% of the estimated taxable value of the property of  
25   the new major industrial facility subject to taxation when

THIRD READING

HB 10

completed. The estimated taxable value of the property of the new major industrial facility subject to taxation shall be computed by the department of revenue when requested to do so by a resolution of the board of trustees of the school district. A copy of the department's statement of estimated taxable value shall be printed on each ballot used to vote on a bond issue proposed under this section.

(2) Pursuant to the agreement between the new major industrial facility and the school district and as a precondition to qualifying as class five property, the new major industrial facility and its owners shall pay, in addition to the taxes imposed by the school district on property owners generally, so much of the principal and interest on the bonds provided for under this section as represents payment on an indebtedness in excess of the limitation prescribed in this section 20-9-406. After the completion of the new major industrial facility and when the indebtedness of the school district no longer exceeds the limitation prescribed in this section, the new major industrial facility shall be entitled, after all the current indebtedness of the school district has been paid, to a tax credit over a period of no more than 20 years. The credit shall as a total amount be equal to the amount which the facility paid the principal and interest of the school district's bonds in excess of its general liability as a

taxpayer within the district.

(3) A major industrial facility is a facility subject to the taxing power of the school district, whose construction or operation will increase the population of the district, imposing a significant burden upon the resources of the district and requiring construction of new school facilities. A significant burden is an increase in ANB of at least 20% in a single year."

Section 4. Section 20-9-351, MCA, is amended to read:

"20-9-351. Funding of deficiency in state equalization aid. If the estimated state equalization level made under the provisions of 20-9-348 is less than 100% ~~or if the permissive--funding--level--made--under--the--provisions--of 20-9-352--is--less--than--100%~~, it shall be the duty of the superintendent of public instruction to request the budget director to submit a request for a supplemental appropriation in the second year of the biennium that would be sufficient to complete the funding of the foundation programs ~~prescribed under 20-9-348--and--of--the--permissive programs--prescribed--under--20-9-352~~ of the elementary or secondary schools, or both, for the current biennium."

Section 5. Section 20-9-352, MCA, is amended to read:

"20-9-352. Permissive amount and permissive levy. (1) Whenever the trustees of any district shall deem it necessary to adopt a general fund budget in excess of the

1 foundation program amount but not in excess of the maximum  
 2 general fund budget amount for such district as established  
 3 by the schedules in 20-9-316 through 20-9-321, the trustees  
 4 shall adopt a resolution stating the reasons and purposes  
 5 for exceeding the foundation program amount. Such excess  
 6 above the foundation program amount shall be known as the  
 7 "permissive amount", and it shall be financed by a levy on  
 8 the taxable value of all taxable property within the  
 9 district as prescribed in 20-9-141, supplemented with any  
 10 biennial appropriation by the legislature for this purpose.  
 11 The proceeds of such an appropriation shall be deposited to  
 12 the state special revenue fund, permissive account.

13 (2) The district levies to be set for the purpose of  
 14 funding the permissive amount are determined as follows:

15 (a) For each elementary school district, the county  
 16 commissioners shall annually set a levy not exceeding 6  
 17 mills on all the taxable property in the district for the  
 18 purpose of funding the permissive amount of the district.  
 19 The permissive levy in mills shall be obtained by  
 20 multiplying the ratio of the permissive amount to the  
 21 maximum permissive amount by 6 or by using the number of  
 22 mills which would fund the permissive amount, whichever is  
 23 less. If the amount of revenue raised by this levy, plus  
 24 anticipated motor vehicle fees and reimbursement under the  
 25 provisions of 61-3-532 and 61-3-536, is not sufficient to

1 fund the permissive amount in full, the amount of the  
 2 deficiency shall be paid to the district from the state  
 3 special revenue fund according to the provisions of 20-9-351  
 4 ~~and-subsection~~ subsections (3) and (4) of this section.

5 (b) For each high school district, the county  
 6 commissioners shall annually set a levy not exceeding 4  
 7 mills on all taxable property in the district for the  
 8 purpose of funding the permissive amount of the district.  
 9 The permissive levy in mills shall be obtained by  
 10 multiplying the ratio of the permissive levy to the maximum  
 11 permissive amount by 4 or by using the number of mills which  
 12 would fund the permissive amount, whichever is less. If the  
 13 amount of revenue raised by this levy, plus anticipated  
 14 motor vehicle fees and reimbursement under the provisions of  
 15 61-3-532 and 61-3-536, is not sufficient to fund the  
 16 permissive amount in full, the amount of the deficiency  
 17 shall be paid to the district from the state special revenue  
 18 fund according to the provisions of 20-9-351~~and-subsection~~  
 19 subsections (3) and (4) of this section.

20 (3) The superintendent of public instruction shall, if  
 21 the appropriation by the legislature for the permissive  
 22 account ~~{program}~~ for the biennium is insufficient, request  
 23 the budget director to submit a request for a supplemental  
 24 appropriation in the second year of the biennium. The  
 25 supplemental appropriation shall provide enough revenue to

h2



1 fund the permissive deficiency of the elementary and high  
 2 school districts of the state. The proceeds of this  
 3 appropriation shall be deposited to the state special  
 4 revenue fund, permissive account, and shall be distributed  
 5 to the elementary and high school districts in accordance  
 6 with their entitlements as determined by the superintendent  
 7 of public instruction according to the provisions of  
 8 subsections (1) and (2) of this section.

9 (3)(4) Such--distribution Distribution under this  
 10 section from the state special revenue fund shall be made in  
 11 two payments. The first payment shall be made at the same  
 12 time as the first distribution of state equalization aid is  
 13 made after January 1 of the fiscal year. The second payment  
 14 shall be made at the same time as the last payment of state  
 15 equalization aid is made for the fiscal year. If the  
 16 appropriation is not sufficient to finance the deficiencies  
 17 of the districts as determined according to subsection (2),  
 18 each district will receive the same percentage of its  
 19 deficiency. Surplus revenue in the second year of the  
 20 biennium may be used to reduce the appropriation required  
 21 for the next succeeding biennium or may be transferred to  
 22 the state equalization aid state special revenue fund if  
 23 revenues in that fund are insufficient to meet foundation  
 24 program requirements."

25 Section 6. Section 20-15-403, MCA, is amended to read:

1 "20-15-403. Applications of other school district  
 2 provisions. (1) When the term "school district" appears in  
 3 the following sections outside of Title 20, the term  
 4 includes community college districts and the provisions of  
 5 those sections applicable to school districts apply to  
 6 community college districts: 2-9-101, 2-9-111, 2-9-316,  
 7 2-16-114, 2-16-602, 2-16-614, 2-18-703, 7-3-1101, 7-6-2604,  
 8 7-6-2801, 7-7-123, 7-8-2214, 7-8-2215, 7-8-2216, 7-11-103,  
 9 7-12-4106, 7-13-110, 7-13-210, 7-15-4206, 10-1-703,  
 10 15-1-101, 15-6-204, 15-16-101, 15-16-601, 15-18-108,  
 11 15-55-106, 15-70-301, 15-70-322, 17-5-101, 17-5-202,  
 12 17-6-103, 17-6-204, 17-6-213, 17-7-201, 18-1-102, ~~18-1-105,~~  
 13 18-1-112, 18-1-201, 18-2-101, 18-2-103, 18-2-113, 18-2-114,  
 14 18-2-404, 18-2-408, 18-5-205, 19-1-102, ~~19-1-602,~~ 19-1-811,  
 15 22-1-309, 25-1-402, 27-18-406, 33-20-1104, 39-3-104,  
 16 39-4-107, 39-31-103, 39-31-304, 39-71-116, 39-71-117,  
 17 39-71-2106, 39-71-2206, 40-6-237, 41-3-1132, 49-3-101,  
 18 49-3-102, 53-20-304, 77-3-321, 82-10-201, 82-10-202,  
 19 82-10-203, 85-7-2158, and 90-6-208 and Rules 4D(2)(g) and  
 20 15(c), M.R.Civ.P., as amended.

21 (2) When the term "school district" appears in a  
 22 section outside of Title 20 but the section is not listed in  
 23 subsection (1), the school district provision does not apply  
 24 to a community college district."

25 Section 7. Section 41-3-609, MCA, is amended to read:

"41-3-609. Criteria for termination. (1) The court may order a termination of the parent-child legal relationship upon a finding that the circumstances contained in subsection (1)(a), (1)(b), or (1)(c), as follows, exist:

(a) the parents have relinquished the child pursuant to ~~40-6-132-through-40-6-134~~ 40-6-135;

(b) the child has been abandoned by his parents as set forth in 41-3-102(3)(d); or

(c) the child is an adjudicated youth in need of care and both of the following exist:

(i) an appropriate treatment plan that has been approved by the court has not been complied with by the parents or has not been successful; and

(ii) the conduct or condition of the parents rendering them unfit is unlikely to change within a reasonable time.

(2) In determining whether the conduct or condition of the parents is unlikely to change within a reasonable time, the court must enter a finding that continuation of the parent-child legal relationship will likely result in continued abuse or neglect or that the conduct or the condition of the parents renders the parents unfit, unable, or unwilling to give the child adequate parental care. In making such determinations, the court shall consider but is not limited to the following:

(a) emotional illness, mental illness, or mental

deficiency of the parent of such duration or nature as to render the parent unlikely to care for the ongoing physical, mental, and emotional needs of the child within a reasonable time;

(b) a history of violent behavior by the parent;

(c) a single incident of life-threatening or gravely disabling injury to or disfigurement of the child caused by the parent;

(d) excessive use of intoxicating liquor or of a narcotic or dangerous drug that affects the parent's ability to care and provide for the child;

(e) present judicially-ordered long-term confinement of the parent;

(f) the injury or death of a sibling due to proven parental abuse or neglect; and

(g) any reasonable efforts by protective service agencies that have been unable to rehabilitate the parent.

(3) In considering any of the factors in subsection (2) in terminating the parent-child relationship, the court shall give primary consideration to the physical, mental, and emotional conditions and needs of the child. The court shall review and, if necessary, order an evaluation of the child's or the parent's physical, mental, and emotional conditions."

Section 8. Section 41-3-1103, MCA, is amended to read:

1 "41-3-1103. Powers and duties of department. (1) The  
2 department shall:

3 (a) administer all state and federal funds allocated  
4 to the department for youth foster homes, youth group homes,  
5 and child-care agencies for youth in need of care, youth in  
6 need of supervision, and delinquent youth;

7 (b) exercise licensing authority over all youth foster  
8 homes, youth group homes, and child-care agencies;

9 (c) collect and disseminate information relating to  
10 youth in need of care, youth in need of supervision, and  
11 delinquent youth;

12 (d) provide for training of program personnel  
13 delivering services;

14 (e) in cooperation with the department of institutions  
15 and youth care facility providers, develop and implement  
16 standards for youth care facilities;

17 (f) apportion and allocate placement budgets to all  
18 judicial districts; and

19 ~~{g}--seek--public--input--on--the--plan--prior--to--its~~  
20 ~~adoption-and-implementation;--and~~

21 {h}{g} maintain adequate data on placements it funds  
22 in order to keep the legislature properly informed of the  
23 following:

24 (i) the breakdown of youth in need of care, youth in  
25 need of supervision, and delinquent youth by category in

1 out-of-home care facilities;

2 (ii) the cost per facility for services rendered;

3 (iii) the type and level of care of services provided  
4 by each facility;

5 (iv) a profile of out-of-home care placements by level  
6 of care; and

7 (v) a profile of public institutional placements.

8 (2) The department may:

9 (a) enter into contracts with nonprofit corporations  
10 or associations to provide facilities and services for youth  
11 in need of care, youth in need of supervision, and  
12 delinquent youth;

13 (b) accept gifts, grants, and donations of money and  
14 property from public and private sources to initiate and  
15 maintain community-based services to youth;

16 (c) adopt rules to carry out the administration and  
17 purposes of this part.

18 (3) The department shall pay for room, board,  
19 clothing, personal needs, transportation, and treatment in  
20 district youth guidance homes, shelter care programs, and  
21 foster care homes for youths committed to the department of  
22 institutions who need to be placed in such facilities.  
23 Youths committed to the department of institutions and  
24 placed in residential facilities other than those described  
25 above shall not be the financial responsibility of the

1 department of social and rehabilitation services unless such  
2 placements have been approved in advance by the department  
3 of social and rehabilitation services."

4 Section 9. Section 41-3-1121, MCA, is amended to read:

5 "41-3-1121. Foster care payments for youth court  
6 placements. (1) The youth court may establish procedures for  
7 finding, maintaining, and administering ~~sheiter~~ substitute  
8 care and foster homes approved by the court for youth within  
9 the provisions of this part.

10 (2) Pursuant to 41-3-1122, the department shall make a  
11 foster care payment for a child placed by the youth court  
12 if:

13 (a) the child is placed in a youth care facility  
14 licensed by the department or by an appropriate licensing  
15 authority from another state;

16 (b) the youth court enters into an agreement according  
17 to federal regulations with the department for the placement  
18 of children;

19 (c) the placement of the child is reviewed as required  
20 by 41-3-1115; and

21 (d) the youth court retains supervision of the child  
22 in placement."

23 Section 10. Section 41-5-601, MCA, is amended to read:

24 "41-5-601. Publicity. (1) No publicity shall be given  
25 to the identity of an arrested youth or to any matter or

1 proceeding in the youth court involving a youth proceeded  
2 against as, or found to be, a delinquent youth or youth in  
3 need of supervision except as provided in subsection (2).

4 (2) When a petition is filed under ~~this--section~~  
5 41-5-501, publicity may not be withheld as to the identity  
6 of any youth formally charged with or proceeded against or  
7 found to be a delinquent youth as a result of the commission  
8 of any offense that would be punishable as a felony if the  
9 youth were an adult."

-End-

28

CHAIRMAN--BLAYLOCK, CHET  
NORMAL SCHEDULE==> SITE: ROOM 402

DAYS: M-W-F

TIME: 1:00-3:00 P.M.

SECRETARY-ROHYANS, JILL

| BILL NO | REFER DT | HEAR DT | CONSIDER                | FURTHER CONSIDER | COMMITTEE ACTION  | *FISCAL NOTE* | ORD'D | REC'D | REFERRER TO COMM | DATE OUT                |
|---------|----------|---------|-------------------------|------------------|-------------------|---------------|-------|-------|------------------|-------------------------|
| HB0010  | 1/18     | 1/25    | <del>1/25</del><br>1/28 |                  | CONCUR            |               |       |       |                  | <del>1/28</del><br>1/28 |
| HB0011  | 1/18     | 1/25    | 2/6                     |                  | CONCUR AS AMENDED |               |       |       | EDUCATION        | 2/08                    |
| HB0011  | 2/13     |         | 2/15                    | 3/25             | TABLED 3/25       |               |       |       |                  |                         |
| HB0018  | 3/04     | 3/20    | 3/25                    | 3/27             | CONCUR            |               |       |       | EDUCATION        | <del>3/27</del><br>3/28 |
| HB0018  | 3/28     |         | 3/29                    |                  | CONCUR            |               |       |       |                  | 3/29                    |
| HB0080  | 1/22     | 1/28    | 1/28                    |                  | CONCUR            |               |       |       |                  | <del>1/28</del><br>1/28 |
| HB0099  | 1/22     | 1/28    | 1/28                    | 2/4              | CONCUR AS AMENDED |               |       |       |                  | <del>2/05</del><br>2/4  |
| HB0111  | 1/29     | 2/11    | 2/11                    | 3/6              | ADVERSE REPORT    |               |       |       |                  | 3/06                    |
| HB0144  | 1/28     | 2/11    | 2/11                    |                  | CONCUR AS AMENDED |               |       |       |                  | <del>2/12</del><br>2/11 |
| HB0194  | 1/28     | 2/11    | 2/11                    |                  | CONCUR            |               |       |       |                  | <del>2/12</del><br>2/11 |
| HB0209  | 2/06     | 3/08    | 3/08                    |                  | CONCUR            |               |       |       |                  | <del>3/08</del><br>3/8  |
| HB0211  | 4/03     | 4/12    | 4/12                    | 4/15             | CONCUR            |               |       |       |                  | 4/15<br>4/15            |
| HB0267  | 2/04     | 2/15    | 2/15                    |                  | CONCUR            |               |       |       |                  | 2/15<br>2/15            |
| HB0298  | 2/07     | 3/06    | 3/06                    |                  | CONCUR AS AMENDED |               |       |       |                  | <del>3/07</del><br>3/6  |

MINUTES OF THE MEETING  
EDUCATION AND CULTURAL RESOURCES COMMITTEE  
MONTANA STATE SENATE

January 25, 1985

The fifth meeting of the Senate Education and Cultural Resources Committee was called to order by the Chairman, Senator Chet Blaylock, at 1:05 p.m. in Room 402, State Capitol Building.

ROLL CALL: All committee members were present but Senator Yellowtail.

CONSIDERATION OF SENATE BILL 167: SENATOR REGAN, District 47, sponsor of the bill, said the bill results from the 1972 Supreme Court decision by allowing for reasonable fees to be charged for a course if it is not required for graduation. She said the Supreme Court intended for school districts to have a degree of flexibility, and while there are grey areas, the bill would allow charging for some elective courses during regular school hours. Some districts already are charging for summer school and after school classes.

PROPOSERS:

CHIP ERDMAN, representing the Montana School Boards Association, stated in the Supreme Court ruling on the Granger decision (definition of "free education"), the Attorney General ruled the definition applied the same way in both the 1899 and 1972 Constitution. He said this bill would go in the school law book and would end some confusion. He urged the committee to support the bill as it is a reasonable approach and excludes anything required for graduation but allows charges for summer school or special after school offerings. He said some schools are already doing this and uniformity is needed statewide.

ALICE TULLY, a Board member of the Montana School Boards Association and a Trustee at Hellgate Elementary in Missoula, said this bill clarifies matters. She said she feels no students will be excluded because of financial difficulties as scholarships are always available.

JIM RENO, Billings Public Schools, said this bill clarifies funding. Due to public request, 41 foreign language classes were offered before and after school. Hardship cases were funded by PTA and PTO groups.

MIKE BOWMAN, Missoula Superintendent, said the Mineral County Commissioners contract with his office for the duties of Mineral County Superintendent. He presented a copy of the contract to the committee (Exhibit #5). He said some clerical and travel duties are increased but there are no other problems.

NANCY WALTER, representing the Montana Education Association, presented her written testimony in support of the bill (exhibit #6).

THELMA ROBERTSON, Superintendent, Shelby, presented her written testimony in support of the bill (Exhibit #7).

KEN MILLER, Wheatland County Superintendent of Schools, said he contracts with the Wheatland Treasurer's Office and he supports the bill even if it would mean he's lose his job.

ELEANOR COLLINS, President, County Superintendents of Montana, said she feels uniform contracts should be developed which would protect both county offices.

CHIP ERDMAN, Montana School Boards Association, rose to express the support of the his organization for the bill. He said County Superintendents are supposed to offer assistance to small districts but that just isn't happening.

JESS LONG, School Administrators of Montana, said the bill makes sense. He noted County Treasurers can't provide teacher evaluations and other specialized services that are necessary.

There were no further proponents and no opponents to the bill.

#### DISCUSSION:

SENATOR MAZUREK asked Bob Stockton if OPI could develop a contract.

MR. STOCKTON replied he felt it could be done.

SENATOR McCALLUM and SENATOR BLAYLOCK asked the Missoula Superintendent, Mr. Bowman, if he receives more compensation for doing the Mineral County Superintendent's work.

MR. BOWMAN said he receives no personal compensation at all.

CONSIDERATION OF HOUSE BILL 10: REPRESENTATIVE EUDAILY, District 60, sponsor of the bill said this is a code commissioner bill

Senate Education and  
Cultural Resources Committee  
January 25, 1985  
Page 6

and simply deals with some housekeeping details in the statutes regarding education and minors (sections 20-3-331, 20-6-321, 20-9-351, 20-9-352, 20-9-407, 20-05-403, 41-3-609, 41-3-1103, 41-3-1121, and 41-5-601, MCA).

PROPOSERS:

GREG PETSCH, Legislative Council Code Commissioner, said the bill clarifies use of supplemental appropriations instead of deficiency levies, and corrects reference and authorizing sections.

CHIP ERDMAN, Montana School Boards Association, supported the bill and said there were no substantive changes at all in the bill.

BILL ANDERSON, Office of Public Instruction, supported the bill.

There being no further proposers and no opponents to the bill Representative Eudaily closed.

ADJOURN:

There being no further business to come before the committee, the meeting was adjourned.



\_\_\_\_\_  
Senator Chet Blaylock, Chairman

jdr



ROLL CALL

SENATE EDUCATION AND CULTURAL RESOURCES COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 1/25/85

| NAME                       | PRESENT | ABSENT | EXCUSED |
|----------------------------|---------|--------|---------|
| SENATOR PINSONEAULT        | ✓       |        |         |
| SENATOR BROWN              | ✓       |        |         |
| SENATOR REGAN              | ✓       |        |         |
| SENATOR SMITH              | ✓       |        |         |
| SENATOR HAFHEY             | ✓       |        |         |
| SENATOR YELLOWTAIL         |         | ✓      |         |
| SENATOR MAZUREK            | ✓       |        |         |
| SENATOR FARRELL            | ✓       |        |         |
| SENATOR McCALLUM           | ✓       |        |         |
| SENATOR BLAYLOCK, CHAIRMAN | ✓       |        |         |
|                            |         |        |         |
|                            |         |        |         |
|                            |         |        |         |
|                            |         |        |         |
|                            |         |        |         |
|                            |         |        |         |

SENATE AND HOUSE COMMITTEE

DATE \_\_\_\_\_

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

MINUTES OF THE MEETING  
EDUCATION AND CULTURAL RESOURCES COMMITTEE  
MONTANA STATE SENATE

January 28, 1985

The sixth meeting of the Senate Education and Cultural Resources Committee was called to order by the Chairman, Senator Chet Blaylock, at 1:03 p.m., in Room 402, State Capitol Building.

ROLL CALL: All committee members were present.

CONSIDERATION OF HOUSE BILL 80: REPRESENTATIVE STEVE WALDRON, District 58, sponsor of the bill, said this is a housekeeping bill which cleans up areas noted in the Legislative Auditor's reports, removes definitions that no longer fit, and generally clarifies the statutes relating to higher education and the Board of Public Education.

PROPOSERS:

IRVING DAYTON, Commissioner of Higher Education, presented his testimony in support of the bill (Exhibit #1).

HIDDE VAN DUYN, Executive Secretary to the Board of Public Education, expressed support for the bill.

There were no further proponents and no opponents to the bill. Representative Waldron closed.

CONSIDERATION OF HOUSE BILL 99: REPRESENTATIVE BRADLEY, District 79, sponsor of the bill, said the bill allows a person with engineering technology training to qualify for certification as an engineer-in-training. She said there is a difference between testing procedures for engineering graduates and engineering technology graduates. Engineers can take the engineer-in-training examination immediately after graduation, but engineering technologists have to wait four years after graduation to take the test, and after taking it, must wait another four more years to take the Professional Engineers test. Engineers draw the plans and models, technologists are out in the field implementing the designs and coordinating between the engineers and the craftsmen. She said the technologists want

Senate Education and  
Cultural Resources Committee  
January 28, 1985  
Page 4

ACTION ON HOUSE BILL 10:

SENATOR MAZUREK moved House Bill 10 BE CONCURRED IN. The motion carried unanimously. Senator Pinsoneault will carry the bill.

ACTION ON SENATE BILL 167:

SENATOR MAZUREK moved the amendments as per the attached standing committee report. The motion carried unanimously.

SENATOR PINSONEAULT moved SB 167 DO PASS AS AMENDED. The motion carried unanimously.

ADJOURN:

There being no further business to come before the committee, the meeting was adjourned.

  
\_\_\_\_\_  
Senator Chet Blaylock, Chairman

jdr

ROLL CALL

SENATE EDUCATION AND CULTURAL RESOURCES COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 1/28

| NAME                       | PRESENT | ABSENT                     | EXCUSED |
|----------------------------|---------|----------------------------|---------|
| SENATOR PINSONEAULT        | ✓       |                            |         |
| SENATOR BROWN              | ✓       |                            |         |
| SENATOR REGAN              | ✓       |                            |         |
| SENATOR SMITH              | ✓       |                            |         |
| SENATOR HAFLEY             | ✓       | 1:40 identifying elsewhere |         |
| SENATOR YELLOWTAIL         | ✓       |                            |         |
| SENATOR MAZUREK            | ✓       |                            |         |
| SENATOR FARRELL            | ✓       |                            |         |
| SENATOR McCALLUM           | ✓       |                            |         |
| SENATOR BLAYLOCK, CHAIRMAN | ✓       |                            |         |
|                            |         |                            |         |
|                            |         |                            |         |
|                            |         |                            |         |
|                            |         |                            |         |
|                            |         |                            |         |
|                            |         |                            |         |

HOUSE BILL NO. 10

INTRODUCED BY EUDAILY

BY REQUEST OF THE CODE COMMISSIONER

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO EDUCATION AND MINORS; AMENDING SECTIONS 20-3-331, 20-6-321, 20-9-351, 20-9-352, 20-9-407, 20-15-403, 41-3-609, 41-3-1103, 41-3-1121, AND 41-5-601, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 20-3-331, MCA, is amended to read:

"20-3-331. Purchase of liability insurance. The trustees of any district may purchase insurance coverage for the district, trustees, and employees against liability for the death, injury, or disability of any person or damage to property. If such insurance is purchased, the trustees shall pay the insurance premium cost from the general fund. ~~The provisions of 2-9-104 shall apply to the provisions of this section.~~"

Section 2. Section 20-6-321, MCA, is amended to read:

"20-6-321. High school district consolidation of districts in two or more counties. Any two or more high school districts located in two or more counties and whose territory is contiguous may consolidate to organize a joint

THERE ARE NO CHANGES IN HB 10  
AND WILL NOT BE RE-RUN. PLEASE  
REFER TO WHITE, YELLOW OR BLUE  
COPY FOR COMPLETE TEXT.

REFERENCE BILL

HB 10



(l) for filing, indexing, or other services provided for by 30-9-401 through 30-9-407, the fees prescribed in those sections;

(m) for recording each stock subscription and contract, stock certificate, and articles of incorporation for water users' associations, \$3;

(n) for filing a copy of notarial commission and issuing a certificate of official character of such notary public, \$2;

(o) for each certified copy of a birth certificate or a death certificate, \$2;

(p) for filing, recording, or indexing any other instrument not expressly provided for in this section or 7-4-2632, the same fee provided in this section or 7-4-2632 for a similar service.

(2) State agencies submitting documents to be put of record shall pay the fees provided for in this section. These fees must be paid by a state agency on a monthly basis."

Section 3. **Effective date.** This act is effective July 1, 1985.

Approved February 6, 1985.

## CHAPTER NO. 15

[HB 10]

AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO EDUCATION AND MINORS; AMENDING SECTIONS 20-3-331, 20-6-321, 20-9-351, 20-9-352, 20-9-407, 20-15-403, 41-3-609, 41-3-1103, 41-3-1121, AND 41-5-601, MCA.

*Be it enacted by the Legislature of the State of Montana:*

Section 1. Section 20-3-331, MCA, is amended to read:

**"20-3-331. Purchase of liability insurance.** The trustees of any district may purchase insurance coverage for the district, trustees, and employees against liability for the death, injury, or disability of any person or damage to property. If such insurance is purchased, the trustees shall pay the insurance premium cost from the general fund."

Section 2. Section 20-6-321, MCA, is amended to read:

**"20-6-321. High school district consolidation of districts in two or more counties.** Any two or more high school districts located in two or more counties and whose territory is contiguous may consolidate to organize a joint high school district. Whenever a joint district consolidation is considered by two or more districts, the procedure for consolidation without the assumption of bonded indebtedness prescribed in 20-6-315 and 20-6-319 must be used, except that each district shall submit its resolution or petition and its election certificate to the county superintendent of its

resident county and the several county superintendents shall jointly perform the duties prescribed for the county superintendent in 20-6-315."

Section 3. Section 20-9-407, MCA, is amended to read:

**"20-9-407. Industrial facility agreement for bond issue in excess of maximum.** (1) In a school district within which a new major industrial facility which seeks to qualify for taxation as class five property under 15-6-135 is being constructed or is about to be constructed, the school district may require, as a precondition of the new major industrial facility qualifying as class five property, that the owners of the proposed industrial facility enter into an agreement with the school district concerning the issuing of bonds in excess of the 45% limitation prescribed in 20-9-406. Under such an agreement, the school district may, with the approval of the voters, issue bonds which exceed the limitation prescribed in this section by a maximum of 45% of the estimated taxable value of the property of the new major industrial facility subject to taxation when completed. The estimated taxable value of the property of the new major industrial facility subject to taxation shall be computed by the department of revenue when requested to do so by a resolution of the board of trustees of the school district. A copy of the department's statement of estimated taxable value shall be printed on each ballot used to vote on a bond issue proposed under this section.

(2) Pursuant to the agreement between the new major industrial facility and the school district and as a precondition to qualifying as class five property, the new major industrial facility and its owners shall pay, in addition to the taxes imposed by the school district on property owners generally, so much of the principal and interest on the bonds provided for under this section as represents payment on an indebtedness in excess of the limitation prescribed in 20-9-406. After the completion of the new major industrial facility and when the indebtedness of the school district no longer exceeds the limitation prescribed in this section, the new major industrial facility shall be entitled, after all the current indebtedness of the school district has been paid, to a tax credit over a period of no more than 20 years. The credit shall as a total amount be equal to the amount which the facility paid the principal and interest of the school district's bonds in excess of its general liability as a taxpayer within the district.

(3) A major industrial facility is a facility subject to the taxing power of the school district, whose construction or operation will increase the population of the district, imposing a significant burden upon the resources of the district and requiring construction of new school facilities. A significant burden is an increase in ANB of at least 20% in a single year."

Section 4. Section 20-9-351, MCA, is amended to read:

**"20-9-351. Funding of deficiency in state equalization aid.** If the estimated state equalization level made under the provisions of 20-9-348 is less than 100%, it shall be the duty of the superintendent of public instruction to request the budget director to submit a request for a supplemental appropriation in the second year of the biennium that would be sufficient to complete the funding of the foundation programs of the elementary or secondary schools, or both, for the current biennium."



Section 5. Section 20-9-352, MCA, is amended to read:

**"20-9-352. Permissive amount and permissive levy.** (1) Whenever the trustees of any district shall deem it necessary to adopt a general fund budget in excess of the foundation program amount but not in excess of the maximum general fund budget amount for such district as established by the schedules in 20-9-316 through 20-9-321, the trustees shall adopt a resolution stating the reasons and purposes for exceeding the foundation program amount. Such excess above the foundation program amount shall be known as the "permissive amount", and it shall be financed by a levy on the taxable value of all taxable property within the district as prescribed in 20-9-141, supplemented with any biennial appropriation by the legislature for this purpose. *The proceeds of such an appropriation shall be deposited to the state special revenue fund, permissive account.*

(2) The district levies to be set for the purpose of funding the permissive amount are determined as follows:

(a) For each elementary school district, the county commissioners shall annually set a levy not exceeding 6 mills on all the taxable property in the district for the purpose of funding the permissive amount of the district. The permissive levy in mills shall be obtained by multiplying the ratio of the permissive amount to the maximum permissive amount by 6 or by using the number of mills which would fund the permissive amount, whichever is less. If the amount of revenue raised by this levy, plus anticipated motor vehicle fees and reimbursement under the provisions of 61-3-532 and 61-3-536, is not sufficient to fund the permissive amount in full, the amount of the deficiency shall be paid to the district from the state special revenue fund according to the provisions of *subsections (3) and (4)* of this section.

(b) For each high school district, the county commissioners shall annually set a levy not exceeding 4 mills on all taxable property in the district for the purpose of funding the permissive amount of the district. The permissive levy in mills shall be obtained by multiplying the ratio of the permissive levy to the maximum permissive amount by 4 or by using the number of mills which would fund the permissive amount, whichever is less. If the amount of revenue raised by this levy, plus anticipated motor vehicle fees and reimbursement under the provisions of 61-3-532 and 61-3-536, is not sufficient to fund the permissive amount in full, the amount of the deficiency shall be paid to the district from the state special revenue fund according to the provisions of *subsections (3) and (4)* of this section.

(3) The superintendent of public instruction shall, if the appropriation by the legislature for the permissive account for the biennium is insufficient, request the budget director to submit a request for a supplemental appropriation in the second year of the biennium. *The supplemental appropriation shall provide enough revenue to fund the permissive deficiency of the elementary and high school districts of the state. The proceeds of this appropriation shall be deposited to the state special revenue fund, permissive account, and shall be distributed to the elementary and high school districts in accordance with their entitlements as determined by the*

*superintendent of public instruction according to the provisions of subsections (1) and (2) of this section.*

(4) *Distribution under this section from the state special revenue fund shall be made in two payments. The first payment shall be made at the same time as the first distribution of state equalization aid is made after January 1 of the fiscal year. The second payment shall be made at the same time as the last payment of state equalization aid is made for the fiscal year. If the appropriation is not sufficient to finance the deficiencies of the districts as determined according to subsection (2), each district will receive the same percentage of its deficiency. Surplus revenue in the second year of the biennium may be used to reduce the appropriation required for the next succeeding biennium or may be transferred to the state equalization aid state special revenue fund if revenues in that fund are insufficient to meet foundation program requirements."*

Section 6. Section 20-15-403, MCA, is amended to read:

**"20-15-403. Applications of other school district provisions.** (1) When the term "school district" appears in the following sections outside of Title 20, the term includes community college districts and the provisions of those sections applicable to school districts apply to community college districts: 2-9-101, 2-9-111, 2-9-316, 2-16-114, 2-16-602, 2-16-614, 2-18-703, 7-3-1101, 7-6-2604, 7-6-2801, 7-7-123, 7-8-2214, 7-8-2215, 7-8-2216, 7-11-103, 7-12-4106, 7-13-110, 7-13-210, 7-15-4206, 10-1-703, 15-1-101, 15-6-204, 15-16-101, 15-16-601, 15-18-108, 15-55-106, 15-70-301, 15-70-322, 17-5-101, 17-5-202, 17-6-103, 17-6-204, 17-6-213, 17-7-201, 18-1-102, 18-1-112, 18-1-201, 18-2-101, 18-2-103, 18-2-113, 18-2-114, 18-2-404, 18-2-408, 18-5-205, 19-1-102, 19-1-811, 22-1-309, 25-1-402, 27-18-406, 33-20-1104, 39-3-104, 39-4-107, 39-31-103, 39-31-304, 39-71-116, 39-71-117, 39-71-2106, 39-71-2206, 40-6-237, 41-3-1132, 49-3-101, 49-3-102, 53-20-304, 77-3-321, 82-10-201, 82-10-202, 82-10-203, 85-7-2158, and 90-6-208 and Rules 4D(2)(g) and 15(c), M.R.Civ.P., as amended.

(2) When the term "school district" appears in a section outside of Title 20 but the section is not listed in subsection (1), the school district provision does not apply to a community college district."

Section 7. Section 41-3-609, MCA, is amended to read:

**"41-3-609. Criteria for termination.** (1) The court may order a termination of the parent-child legal relationship upon a finding that the circumstances contained in subsection (1)(a), (1)(b), or (1)(c), as follows, exist:

(a) the parents have relinquished the child pursuant to 40-6-135;

(b) the child has been abandoned by his parents as set forth in 41-3-102(3)(d); or

(c) the child is an adjudicated youth in need of care and both of the following exist:

(i) an appropriate treatment plan that has been approved by the court has not been complied with by the parents or has not been successful; and

(ii) the conduct or condition of the parents rendering them unfit is unlikely to change within a reasonable time.

(2) In determining whether the conduct or condition of the parents is unlikely to change within a reasonable time, the court must enter a finding that continuation of the parent-child legal relationship will likely result in continued abuse or neglect or that the conduct or the condition of the parents renders the parents unfit, unable, or unwilling to give the child adequate parental care. In making such determinations, the court shall consider but is not limited to the following:

(a) emotional illness, mental illness, or mental deficiency of the parent of such duration or nature as to render the parent unlikely to care for the ongoing physical, mental, and emotional needs of the child within a reasonable time;

(b) a history of violent behavior by the parent;

(c) a single incident of life-threatening or gravely disabling injury to or disfigurement of the child caused by the parent;

(d) excessive use of intoxicating liquor or of a narcotic or dangerous drug that affects the parent's ability to care and provide for the child;

(e) present judicially-ordered long-term confinement of the parent;

(f) the injury or death of a sibling due to proven parental abuse or neglect; and

(g) any reasonable efforts by protective service agencies that have been unable to rehabilitate the parent.

(3) In considering any of the factors in subsection (2) in terminating the parent-child relationship, the court shall give primary consideration to the physical, mental, and emotional conditions and needs of the child. The court shall review and, if necessary, order an evaluation of the child's or the parent's physical, mental, and emotional conditions."

Section 8. Section 41-3-1103, MCA, is amended to read:

**"41-3-1103. Powers and duties of department.** (1) The department shall:

(a) administer all state and federal funds allocated to the department for youth foster homes, youth group homes, and child-care agencies for youth in need of care, youth in need of supervision, and delinquent youth;

(b) exercise licensing authority over all youth foster homes, youth group homes, and child-care agencies;

(c) collect and disseminate information relating to youth in need of care, youth in need of supervision, and delinquent youth;

(d) provide for training of program personnel delivering services;

(e) in cooperation with the department of institutions and youth care facility providers, develop and implement standards for youth care facilities;

(f) apportion and allocate placement budgets to all judicial districts; *and*  
(g) maintain adequate data on placements it funds in order to keep the legislature properly informed of the following:

(i) the breakdown of youth in need of care, youth in need of supervision, and delinquent youth by category in out-of-home care facilities;

(ii) the cost per facility for services rendered;

(iii) the type and level of care of services provided by each facility;

(iv) a profile of out-of-home care placements by level of care; and

(v) a profile of public institutional placements.

(2) The department may:

(a) enter into contracts with nonprofit corporations or associations to provide facilities and services for youth in need of care, youth in need of supervision, and delinquent youth;

(b) accept gifts, grants, and donations of money and property from public and private sources to initiate and maintain community-based services to youth;

(c) adopt rules to carry out the administration and purposes of this part.

(3) The department shall pay for room, board, clothing, personal needs, transportation, and treatment in district youth guidance homes, shelter care programs, and foster care homes for youths committed to the department of institutions who need to be placed in such facilities. Youths committed to the department of institutions and placed in residential facilities other than those described above shall not be the financial responsibility of the department of social and rehabilitation services unless such placements have been approved in advance by the department of social and rehabilitation services."

Section 9. Section 41-3-1121, MCA, is amended to read:

**"41-3-1121. Foster care payments for youth court placements.**

(1) The youth court may establish procedures for finding, maintaining, and administering *substitute* care and foster homes approved by the court for youth within the provisions of this part.

(2) Pursuant to 41-3-1122, the department shall make a foster care payment for a child placed by the youth court if:

(a) the child is placed in a youth care facility licensed by the department or by an appropriate licensing authority from another state;

(b) the youth court enters into an agreement according to federal regulations with the department for the placement of children;

(c) the placement of the child is reviewed as required by 41-3-1115; and

(d) the youth court retains supervision of the child in placement."

Section 10. Section 41-5-601, MCA, is amended to read:

**"41-5-601. Publicity.** (1) No publicity shall be given to the identity of an arrested youth or to any matter or proceeding in the youth court involving a youth proceeded against as, or found to be, a delinquent youth or youth in need of supervision except as provided in subsection (2).

(2) When a petition is filed under 41-5-501, publicity may not be withheld as to the identity of any youth formally charged with or proceeded against or found to be a delinquent youth as a result of the commission of any offense that would be punishable as a felony if the youth were an adult."

Approved February 8, 1985.

## CHAPTER NO. 16

[HB 28]

AN ACT REVISING THE DEFINITION OF WINE AND TABLE WINE;  
AMENDING SECTION 16-1-106, MCA; AND PROVIDING AN  
IMMEDIATE EFFECTIVE DATE.

*Be it enacted by the Legislature of the State of Montana:*

Section 1. Section 16-1-106, MCA, is amended to read:

**"16-1-106. Definitions.** As used in this code, the following definitions apply:

(1) "Agency agreement" means an agreement between the department and a person appointed to sell liquor as a commission merchant rather than as an employee.

(2) "Alcohol" means ethyl alcohol, also called ethanol, or the hydrated oxide of ethyl.

(3) "Alcoholic beverage" means a compound produced and sold for human consumption as a drink that contains more than .5% of alcohol by volume.

(4) "Beer" means a malt beverage containing not more than 7% of alcohol by weight.

(5) "Brewer" means a person who produces malt beverages.

(6) "Department" means the department of revenue.

(7) "Immediate family" means a spouse, dependent children, or dependent parents.

(8) "Industrial use" means a use described as industrial use by the federal Alcohol Administration Act and the federal rules and regulations of 27 CFR.

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